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5 **UNITED STATES DISTRICT COURT**
6 **CENTRAL DISTRICT OF CALIFORNIA — WESTERN DIVISION**
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10 SOPHIE VOLOVNIK,

11 Plaintiff,

12 vs.

13 WELLS FARGO BANK, N.A., as
14 Original Lender, WELLS FARGO
15 BANK, N.A., as trustee for securitized
16 trust RESIDENTIAL FINANCE
17 LIMITED PARTNERSHIP 2003-B;
18 WELLS FARGO BANK, N.A., as
19 Master Servicer; MORTGAGE
20 ELECTRONIC REGISTRATION
21 SYSTEM, aka “MERS”, NATIONAL
22 INVESTMENT FUND, LLC and
23 DOES 1 THROUGH 100, inclusive,

24 Defendants.

Case No. 2:12-cv-07232 JAK PLA
Hon. John A. Kronstadt
Ct. 750 – Roybal

JUDGMENT OF DISMISSAL

JS-6

Date: March 11, 2013
Time: 8:30 a.m.
Ct. 750 – Roybal

Action Filed: August 22, 2012

25 The motion of Defendants WELLS FARGO BANK N.A. (erroneously sued
26 as WELLS FARGO BANK, N.A., as Original Lender, WELLS FARGO BANK,
27 N.A., as trustee for securitized trust RESIDENTIAL FINANCE LIMITED
28 PARTNERSHIP 2003-B; WELLS FARGO BANK, N.A., as Master Servicer) and
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. (erroneously

1 sued as MORTGAGE ELECTRONIC REGISTRATION SYSTEM, aka “MERS”)
2 (collectively “Defendants”) to dismiss the Complaint of Plaintiff SOPHIE
3 VOLOVNIK (“Plaintiff”) pursuant to Federal Rule of Civil Procedure 12(b)(6) for
4 failure to state a claim upon which relief can be granted came on regularly for
5 hearing on March 11, 2013, at 8:30 a.m. in Courtroom 750, the Honorable John A.
6 Kronstadt presiding. David A. Berkley of Severson & Werson appeared on behalf
7 of Defendants. No appearance was made by or on behalf of Plaintiff.

8 The Court, having read and considered Defendants’ motion to dismiss, the
9 memorandum of points and authorities in support thereof, and no opposition having
10 been received, granted Defendants’ motion to dismiss Plaintiff’s Complaint with
11 prejudice. However, the Court permitted Plaintiff to file an application to set aside
12 the Court’s ruling no later than March 21, 2013, to permit the filing of an amended
13 complaint consistent with the Court’s ruling on Defendants’ motion to dismiss.

14 To date Plaintiff has failed to file an application to set aside the Court’s ruling
15 on Defendants’ motion to dismiss. Accordingly, Defendants’ motion to dismiss is
16 granted and the case is dismissed with prejudice.

17 GOOD CAUSE APPEARING,

18 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the
19 motion of Defendants’ to dismiss Plaintiff’s Complaint is granted with prejudice.

20 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the
21 case is dismissed in its entirety with prejudice as to Defendants WELLS FARGO
22 BANK N.A. and MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.

23 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the
24 Complaint was filed on August 22, 2012 naming National Investment Fund, LLC
25 (“NIF”) as a Defendant. Plaintiff failed to file a proof of service within 120 days
26 after the filing of the Complaint pursuant to Fed. R. Civ. P. 4(m). An action may be
27 dismissed if the Plaintiff fails diligently to prosecute it. Therefore, NIF is dismissed
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1 with prejudice for Plaintiff's failure to prosecute.
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3 DATED: April 30, 2013
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JOHN A. KRONSTADT
UNITED STATES DISTRICT JUDGE
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